

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DEBORAH DONOGHUE,

Plaintiff,

vs.

IMMUNOSYN CORPORATION; ARGYLL
BIOTECHNOLOGY LLC; DOUGLAS
MCCLAIN, JR.; and JAMES T. MICELI,

Defendants.

CASE NO. 08cv0510 JM(WMc)

ORDER DISMISSING ACTION
WITHOUT PREJUDICE; DENYING
MOTION TO WITHDRAW AS
COUNSEL OF RECORD AS MOOT

On June 2, 2008 the court stayed the present action pending resolution of an identical first-filed action commenced in the Southern District of New York. In the stay order the court required the parties to file a status report on or before December 1, 2008 informing the court of the status of the first-filed-action. Neither party complied with this order. On December 5, 2008 the court issued an order to show cause why the action should not be dismissed for failure to comply with this court's June 2, 2008 order. Since then, Plaintiff filed a status report informing the court that the New York action is progressing and that counsel for Defendants Argyll Biotechnology LLC, Douglas McClain, Jr., and James T. Miceli, represented by the law firm of Thelen Reid Brown Raysman & Steiner LLP ("Thelen"), have filed a motion to withdraw as counsel of record. Defendant Immunosyn Corp., although served with process on April 29, 2008, has yet to make an appearance in this case.


Also pending before the court is Thelen's motion to be relieved as counsel of record for Defendants Argyll Biotechnology LLC, Douglas McClain, Jr., and James T. Miceli. Thelen has not

1 filed a substitution of attorney. Thomas Hill, Esq., a member of Thelen's Administrative Committee,
2 declares that Thelen's partnership has voted to dissolve the firm and that, as of December 1, 2008,
3 Thelen ceased the practice of law and is currently winding down its business." (Hill Decl. ¶2). Barry
4 G. Felder, Esq., a former partner of Thelen, declares that the New York court granted its unopposed
5 motion to withdraw as counsel for Defendants Argyll Biotechnology LLC, Douglas McClain, Jr., and
6 James T. Miceli.

7 In order to administratively close the file, the court dismisses the action without prejudice,
8 subject to reopening the action nunc pro tunc to the date of dismissal upon ex parte application or
9 noticed motion by any party to reopen the action. As the court administratively closes the case the
10 motion to be relieved as counsel of record is moot. In the event Thelen desires to be substituted out
11 of the case, it need only file a notice of substitution of attorney executed by new counsel and Thelen's
12 clients.

13 **IT IS SO ORDERED.**

14 DATED: March 12, 2009

15 
16 Hon. Jeffrey T. Miller
United States District Judge

17 cc: All parties
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